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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
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CV 02 01691 000000012

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HELEN COLLIER

Plaintiff,

v.

KING COUNTY DEPARTMENT OF
YOUTH SERVICES, *et al.*,

Defendants.

Case No. C02-1691L

ORDER GRANTING MOTION
TO AMEND COMPLAINT AND
REMAND

I. INTRODUCTION

This matter comes before the Court on a motion by the plaintiff, Helen Collier ("Collier"), to amend her complaint and to remand this case to King County Superior Court. The defendants, King County Department of Youth Services, *et al.* (collectively, "Defendants"), oppose the motion. For the reasons set forth in this Order the Court grants Collier's motion.

II. DISCUSSION

Collier originally filed this action in King County Superior Court on July 18, 2002. On August 15, 2002, Defendants removed the action to this Court on the basis that Collier's claim for punitive damages pursuant to 42 U.S.C. § 1981 constitutes a federal

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1 question. Collier now contends that the inclusion of the 42 U.S.C. § 1981 sentence “was
2 a simple oversight” and that she “does not intend to pursue any relieve [sic] under any
3 federal statute.” (Motion at 2). Collier therefore moves to amend her complaint to
4 eliminate the reference to 42 U.S.C. § 1981 and moves to remand the action to King
5 County Superior Court.

6 Fed. R. Civ. P. 15(a) articulates a liberal policy favoring motions to amend
7 pleadings and directs courts to grant such leave “when justice so requires.” The Supreme
8 Court has instructed district courts to grant leave freely in the absence of factors such as
9 undue delay, bad faith, undue prejudice, or repeated failure to cure deficiencies by
10 amendments previously allowed. See Forman v. Davis, 371 U.S. 178, 182 (1962). The
11 party opposing the amendments bears the burden of establishing actual and undue
12 prejudice or bad faith. See DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 187 (9th Cir.
13 1987). Although Defendants implicitly argue that the motion to amend is an attempt to
14 defeat removal to federal court, Defendants have not established “actual and undue
15 prejudice or bad faith.” Rather, Collier appears to have referred to 42 U.S.C. § 1981 by
16 mistake. The Court therefore grants Collier’s motion to amend.


17 The amendment eliminates the only claim for which this Court possessed original
18 jurisdiction. When all claims for which a federal court possessed original jurisdiction are
19 eliminated, “the balance of factors will weigh toward remanding any remaining pendent
20 state claims to state court.” Harrell v. 20th Century Ins. Co., 934 F.2d 203, 205 (9th Cir.
21 1991); see also 28 U.S.C. § 1367(c)(3) (permitting court to decline to exercise
22 supplemental jurisdiction when all claims for which court possessed original jurisdiction
23 are dismissed). However, where substantial judicial resources have already been
24 committed and remanding would cause a duplication of effort, the district court may

1 properly retain jurisdiction over state law claims. Schneider v. TRW, Inc., 938 F.2d 986,
2 994-95 (9th Cir. 1991). Defendants note that the Court has already issued an order
3 regarding initial disclosures, the joint status report, and early settlement. However, that
4 order does not constitute the "substantial judicial resources" that would cause this Court
5 to retain jurisdiction over the state law claims. Therefore the Court grants Collier's
6 motion to remand.

7 III. CONCLUSION

8 For the foregoing reasons, Collier's motion to amend her complaint and to remand
9 this action is GRANTED. The Clerk of the Court is directed to file Collier's proposed
10 first amended complaint and to transmit a copy of the file to King County Superior Court.
11 The Clerk of the Court is also directed to send a copy of this Order to all counsel of
12 record.

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14 DATED this 1st day of November, 2002.

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17 Robert S. Lasnik
18 United States District Judge
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